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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,859	07/16/2003	Andrew R. Weisenberger	W-332	1761
802	7590	12/21/2004	EXAMINER	
DELLETT AND WALTERS				JIANG, CHEN WEN
P. O. BOX 2786				ART UNIT
PORTLAND, OR 97208-2786				PAPER NUMBER
				3744

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/621,859	WEISENBERGER ET AL.
	Examiner Chen-Wen Jiang	Art Unit 3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 October 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 and 22-29 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-13 and 22-29 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 16 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20031016</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1,2,3,4,5,7,8,9,10,11,12,13,22,24,25,27,28 and 29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Munters (Munters 2000/2001).

Munters discloses to end construction site problems using dehumidification and heating. Munters dehumidifiers continuously replace air inside the building with air which has been dehumidified.

It attracts moisture molecules from wet surfaces such as recently poured concrete, joint compound, freshly painted walls, stores building materials, etc. allowing them to dry at an accelerated rate. The required humidity setting is inherent in the process since the humidifier including humidity setting. In regard to claim 27, the addition of duplicate parts to the apparatus is not the type of innovation for a patent to be granted. *St. Regis Paper Co. v. Bemis Co., Inc.*, 193 USPQ 8, 11 (7th Cir. 1977).

3. Claims 1-13 and 22-29 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Harriman et al. (ASHRAE Journal, September 2002).

Harriman et al. disclose using dehumidifiers to dry out materials that have absorbed excessive moisture during construction. This practice allows building projects to stay on schedule while limiting the potential for mold problems. Fig. 5 shows a typical temporary enclosure and doorway erected by a drying contractor to retain the dry air in the part of building that needs it. Also, using dry air during interior wall installation reduces the risk of hidden mold after the project is complete. The building materials can be kept dry during construction, the risk of mold growth is significantly reduced.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,2,5-13 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Halloran et al. (U.S. Patent Number 5,992,161).

O'Halloran et al. disclose an air handler control temperature, humidity and/or cleanliness of air. O'Halloran et al. also disclose dehumidification is often advantageous during plant construction. The system provides dehumidification earlier in the construction cycle of the facility. It removes moisture from the air stream, which may contain contaminates, and also can render the appropriate relative humidity to the air stream to remove contaminates by *filtration*. The removing of contaminates is irrelevant in the examination. Referring to FIG. 1, there is shown a block diagram illustrating a conventional make-up air handler 100, which comprises a preheating coil 102, a humidifier 104, a primary cooling coil 106, a secondary cooling coil 108, a

heating coil 110 and a filter 112. The preheating coil 102 heats the incoming air when the air is colder than a predetermined temperature. The preheating coil 102 is a conventional preheat coil. The humidifier 104 adds moisture to the air when the air is drier than a predetermined wet bulb humidifier. The humidifier 104 is a conventional humidifier. The primary cooling coil 106 cools incoming warm, moist air to a preset temperature. The incoming air is typically in a wide temperature range because of seasonal variations. This cooling is performed when the ambient air temperature is warmer than the preset temperature. The primary cooling coil 106 includes a series of coils using chilled water from a remote utility plant (not shown). The secondary cooling coil 108 further cools the air to a target dew point temperature that is associated with a desired humidity. Under the principals of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809. The examiner can normally be reached on Tuesday-Friday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner

A handwritten signature in black ink, appearing to read "Jiang".